IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

WP(C).No. 19974 of 2007(C)

PETITIONER:

K.K. BEENA, AGED 55 YEARS,
D/O. KOTHAKULANGARA KUNJITTY, ESTATE OFFICER(RTD.)
KARAYIL HOUSE, SANTHOSH NAGAR, MANNUTHY,
THRISSUR-680 651.

BY ADV. SRI.P.V.MOHANAN

RESPONDENTS:

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1. KERALA AGRICULTURAL UNIVERSITY,
REPRESENTED BY IT'S REGISTRAR, KERALA AGRICULTURAL
UNIVERSITY, VELLANIKKARA, THRISSUR.

2. DEPUTY DIRECTOR,
OFFICE OF THE DEPUTY DIRECTOR OF LOCAL FUND AUDIT,
KERALA AGRICULTURAL UNIVERSITY, VELLANIKKARA.

BY S.C. SRI.RANJITH THAMPAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/08/2007, ALONG WITH WPS.23429,23430 & 23431/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K. Basheer, J.

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W.P(C) Nos. 19974,23429, 23430 & 23431 of 2007

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Dated this the 3rd day of August, 2007.

J U D G M E N T

Petitioners in these writ petitions are retired employees of Kerala Agricultural University. They were holding different posts in the cadre of Assistant Registrar in the University.

Grievance of the petitioners is that the Deputy Director of Local Fund Audit has arbitrarily refixed their pay with effect from January 1, 1976 taking the last pay drawn in the scale which was prevalent as on the date mentioned above. Consequently, the Local Fund Audit found that petitioners had drawn huge amounts in excess than what they were actually entitled to get. Therefore the petitioners were directed to refund the said amounts or in the alternative, it was directed that the said excess amount be recovered from the Death Cum Retirement Benefit payable to them. It is not necessary to refer to the amounts sought to be recovered from each of the petitioner in view of the order that I propose to pass after hearing learned counsel for the petitioner and learned Standing Counsel for the University who has received instructions in the matter now.

3. Learned Standing Counsel submits that on an earlier occasion when the Local Fund Audit had raised a similar objection, the University had taken a decision that the objection raised by the Audit Fund was not correct. The Government in Ext.P2

communication dated August 9, 1996 had informed the Registrar that the excess payments made to the employees consequent on the review of promotions need not be recovered since the employees had actually officiated in the higher post. It was therefore suggested that the excess payments may be waived by the University. Subsequently in the year 2001, the University had issued Ext.P3 order in which it was made clear that "the Executive Committee had decided to modify the decision of the University to the effect that the pay and allowances already drawn for officiating in the promoted posts by those incumbents whose promotions were postponed but not reverted are protected." It was further stated in Ext.P3 that the University had decided that the pay and allowances already drawn for officiating in the promoted posts by those incumbents whose promotions were postponed, including those who have retired from service would be protected. Things remained quiet thereafter.

4. However in September 2006 Deputy Director of Local Fund Audit again raised some objections and took the view that consequent on the revised seniority list dated May 5, 1984, the pay of the incumbents was not regulated though the date of promotion as Senior Grade Assistant was changed from January 1, 1976 to January 7, 1980. Consequently the Auditor took the view that those employees had drawn excess salary than what they were in fact entitled to draw. It was in the above circumstances that recovery was ordered in the case of the petitioners and the DCRG payable to them was withheld. Learned counsel for the petitioners submits that if recovery as proposed by the

audit is effected, the petitioners may lose huge amounts in the region of 2.5 to 2.75 lakhs each and what they may be left with will be hardly Rs.40, 000/- to 50,000/- each.

5. Learned standing Counsel for the University submits that the Executive Committee has decided to consider the issue raised by the petitioners with all compassion, particularly in the light of Exts.P2 and P3 orders referred to above. Therefore I do not propose to deal with the issue any further, since it is submitted by the learned Standing Counsel that the Committee is likely to meet in the course of this month. The above submissions are recorded.

6. It shall be ensured by the University that a decision is taken in the matter within six weeks from today. In the meanwhile the admitted amount of DCRG shall be released to the petitioners forthwith. It is made clear that it will be open to the petitioners to pursue the remedies available to them, if the decision to be taken by the University goes against them. It is further made clear that I have not considered the merit of any of the contentions raised by the petitioners in these writ petitions.

Writ Petitions are closed with the above directions/observations.

A.K. Basheer
Judge.

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